

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Windstream Holdings, Inc., *et al.*,¹
Debtors.

Robert Murray,

Appellant,

v.

Windstream Holdings, Inc. and Earthlink
Holdings Corp.,

Appellees.

Chapter 11

Bankruptcy Case No. 19-22312 (RDD)

(Jointly Administered)

Case No. 7:19-cv-06744 (CS)

**DISMISSAL AGREEMENT AND [PROPOSED] ORDER DISMISSING BANKRUPTCY
APPEAL PURSUANT TO FED. R. BANKR. P. 8023**

WHEREAS, on July 17, 2019, Robert Murray (“Appellant”) commenced the above-captioned bankruptcy appeal (the “Appeal”) by filing a notice of appeal from the July 3, 2019 *Order Denying Motion of Securities Lead Plaintiff to Dismiss Adversary Complaint and Extending the Automatic Stay to Non-Debtor Defendants in the Securities Class Action* entered by the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York.

WHEREAS, on September 21, 2020, the confirmed chapter 11 plan of reorganization of Appellees and their debtor affiliates became effective by its terms (the “Effective Date”).

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

WHEREAS, the Parties agree that due to the occurrence of the Effective Date, the Appeal is now moot and should be dismissed pursuant to Federal Rule of Bankruptcy Procedure 8023, which provides in pertinent part that “[t]he clerk of the district court . . . must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due.”

WHEREAS, Appellant paid the filing fee at the time he filed a notice of this Appeal, no other fees are due in connection with the Appeal, and the Parties have agreed to bear their own respective costs in connection with the Appeal.

NOW, THEREFORE, it is hereby stipulated and agreed by the Parties, by and through their undersigned counsel and subject to approval by this Court, that:

1. The Appeal is voluntarily dismissed as moot pursuant to Fed. R. Bankr. P. 8023.
2. Upon approval of this *Dismissal Agreement and [Proposed] Order Dismissing Bankruptcy Appeal Pursuant to Fed. R. Bankr. P. 8023*, the Clerk of the Court shall close the Appeal.

[*signature page follows*]

Dated: October 20, 2020

Respectfully submitted,

LOWENSTEIN SANDLER LLP

/s/ Michael S. Etkin
Michael S. Etkin
Andrew Behlmann
One Lowenstein Drive
Roseland, New Jersey 07068
Telephone 973-597-2500
Facsimile 973-597-2333
metkin@lowenstein.com
abehlmann@lowenstein.com

Bankruptcy Counsel to Appellant

**KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP**

/s/ Yates M. French
Stephen E. Hessler, P.C.
Marc Kieselstein, P.C.
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (*admitted pro hac vice*)
Brad Weiland (*admitted pro hac vice*)
Yates M. French (*admitted pro hac vice*)
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to Appellees

SO ORDERED.

~~XX~~ October 20, 2020

Cathy Seibel
CATHY SEIBEL, U.S.D.J.